

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

In Re: Lockhart Chemical Company, f/k/a
Additives International,

Bankruptcy No. 22-22005
Chapter 7

Debtor,

HON. CARLOTA M. BÖHM

Natalie Lutz Cardiello, Chapter 7 Trustee for
Lockhart Chemical Company,

Movant.

**MICHIGAN DEPARTMENT OF ENVIRONMENT, GREAT LAKES, AND
ENERGY'S STATEMENT IN SUPPORT OF THE TRUSTEE'S EXPEDITED
THIRD MOTION FOR AUTHORITY TO CONTINUE TO OPERATE
DEBTOR'S BUSINESS**

The Michigan Department of Environment, Great Lakes, and Energy (EGLE) states as follows in support of the *Expedited Third Motion for Authority to Continue to Operate Debtor's Business* filed by the Chapter 7 Trustee, Natalie Lutz Cardiello (Trustee):

1. The Lockhart Chemical Company's (Debtor) business involves operating a chemical facility located at 4302 James P. Cole Boulevard, Flint, Genesee County, Michigan (Facility). Chemical products, hazardous process materials, and wastes at the Facility pose a risk to public health and the environment and must be properly managed according to state and federal environmental laws.

2. The Debtor had a long history of non-compliance with environmental protection laws, including failing to properly manage chemicals, hazardous wastes, contaminated process water and stormwater, and liquid industrial by-products.

3. On June 15, 2022, the Facility illicitly discharged approximately 15,000 gallons of oily substances into the Flint River, prompting an emergency spill response by EGLE and the United States Environmental Protection Agency (EPA).

4. On September 19, 2022, the Director of EGLE issued a Director's Final Order (DFO) under Part 31, Water Resources Protection, of Michigan's Natural Resources and Environmental Protection Act, 1194 PA 451, Mich. Comp. Laws §§ 324.3101–324.3134, detailing environmental issues at the Facility and directing the Debtor to take certain steps to protect the public health, safety, and welfare of the environment. (ECF No. 111-1.)

5. Rather than addressing the environmental issues at the Facility, the Debtor filed for Chapter 7 bankruptcy on October 10, 2022, leaving behind compromised infrastructure, improperly stored chemical materials, and other serious environmental issues at the Facility. (ECF No. 1.)

6. On October 25, 2022, this Court granted the Trustee's *Expedited Motion for Authority to Operate Debtor's Business Nunc Pro Tunc*. (ECF No. 29.) The Court granted the Trustee's *Second Motion for Authority to Operate Debtor's Business* on May 8, 2023. (ECF No. 128.)

7. On December 2, 2022, the EPA issued an Administrative Order under Section 311(c) of the Clean Water Act, 33 U.S.C. § 1321(c), requiring that certain steps be taken to reduce the risk of a potential release of oil and hazardous substances during the Trustee's operation of the Facility. (ECF No. 81-1.)

8. The EPA subsequently approved a Work Plan and a Health and Safety Plan pertaining to the Trustee's operation of the Facility.

9. EGLE believes that the Trustee's operation of the Facility in compliance with the DFO, the EPA Administrative Order, and applicable environmental protection laws is beneficial the estate, the public, and the environment, as it provides a process by which chemical products, wastes, and other materials can be safely removed from the Facility and sold or properly disposed of subject to appropriate health and safety measures and oversight.

10. The Trustee's operations to date have generated revenue for the estate, improved the Facility for a potential sale, and reduced (but not eliminated) the environmental hazard posed by the Facility.

11. EGLE supports the Trustee having continued authority to operate the Debtor's business, so long as the Trustee's operations are subject to and comply with the DFO, the EPA Administrative Order, and all applicable environmental protection laws, as required under 28 U.S.C. § 959(b).

Respectfully submitted,

/s/ Keith D. Underkoffler

Megen E. Miller (*pro hac vice*)

Keith D. Underkoffler (*pro hac vice*)

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Dated: November 2, 2023

LF: Lockhart Chemical Co. (EGLE-RRD, MMD, WRD) BK/AG #2022-0357710-B/EGLE's Statement in Support of the Trustee's Third Expedited Motion for Authority to Operate Debtor's Business 2023-11-02